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EXAMINER

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/695,107  
Filing Date: October 24, 2003  
Appellant(s): SUTHERLAND ET AL.

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Michael G. Vieira  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed December 15, 2005 appealing from the Office actions mailed November 3, 2005 and November 18, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claim 1-7, 8, and 9.

Claim 10 has been canceled.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

A substantially correct copy of appealed claims 1-9 appears on page 14 and 15 of the Appendix to the appellant's brief. The minor errors are as follows: the status

identifiers of each claim should be omitted and claim 7 is not canceled since the amendments after final were not entered.

--Claim 7. The apparatus of claim 6 wherein the one or more handles are collapsible--.

**(8) Evidence Relied Upon**

19936653	FLECK (Germany)	2-2001
5,881,477	WATSON	3-1999

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claim 7 stands rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of the one or more handles being collapsible is not shown in the drawings nor described in the specification.

Claims 1-6, 8, and 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over German Publication 19936653 to Fleck in view of U.S. Patent 5,881,477 to Watson. Fleck an apparatus (10) for supporting an article (2) on a vehicle surface (3) during transport with a vehicle, the apparatus comprising: one or more straps (5, 9); a planar platform (4) having a body and cooperating with the one or more straps for holding the article against the platform, the platform further comprising a planar top surface (4a), a planar bottom surface (4b) parallel to the top surface, a

Art Unit: 3632

bearing member (space between slots 6), a plurality of slots (6) separating the bearing member; at least one recess (24), aligned with the slots and bearing member, recessing from the bottom surface into the body of the platform; wherein the one or more straps are removable from the platform; wherein the one or more straps vary in width and length according to the size of the article to be supported; and one or more handles (11) attached to the body of the platform.

Fleck discloses the claimed invention except for the limitations of a plurality of bearing members. Watson teaches a planar platform (12) having a one or more straps (28, 57, 50), the planar platform having a body, a planar top surface, a planar bottom surface, a plurality of bearing members arranged in succession to enable adjustment of the one or more straps, and a plurality of slots (18) separating the bearing members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the number of bearing members and slots in Fleck to have included the number of bearing members and slots as taught by Watson for the purpose of increasing the adjustability of the apparatus to accommodate a variety of articles.

Fleck further discloses slip-resistant wedges (17) and feet (21). Fleck combined with Watson disclose the claimed invention except for the limitations of the one or more straps being permanently fastened to the platform; one or more handles being formed into the platform; and wherein the top and bottom surfaces are slip resistant. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the straps in Fleck to have been permanently attached to the platform and to have formed the handles into the platform, since such modifications

Art Unit: 3632

would have merely involved making a separable item integral and would not have produced any unexpected results. It would have been obvious to one having ordinary skill in the art at the time the invention was made constructed the platform of slip resistant material for the purpose of preventing unwanted slippage of the articles relative to the platform and the platform relative to the supporting surface.

#### **(10) Response to Argument**

In response to appellant's argument that Fleck does not have a planar top surface that engages the article, firstly, the article is not positively cited as an element of the claimed invention, i.e., a combination of the invention, and the wedge surfaces (18) in Fleck are part of the planar surface (4a) and thus are adapted to engage the article and depending on the shape of the article, the top surface (4a) is capable of engaging the article as well.

In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Watson shows that it is known to have a plurality of slots separated by bearing members to position and adjust the straps along the apparatus to accommodate attaching a particular article to the apparatus.


Art Unit: 3632

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
Anita M. King  
Primary Examiner  
Art Unit 3632

February 28, 2006

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